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**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/155,241 09/22/98 JOUANNEAU

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EXAMINER

BEHREND, H

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 08/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/153241

Applicant(s)

Jouanneau

Examiner

Behrend

Group Art Unit

3641

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-38 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-38 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-26, 31-38, drawn to an invention, classified in class 376, subclass 146.
  - II. Claims 27, 28, drawn to an invention, classified in class 315, subclass 111.21.
  - III. Claims 29, 30, drawn to an invention, classified in class 148, subclass 512.
2. If invention I is elected, applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, claim 1 is generic).
  - 1a. The embodiment wherein plasma is released from a solid (claims 1-12).
  - 1b. The embodiment wherein particles are caused to enter a solid, form a plasma therein and, wherein the particles fuse and produce atomic particles (claims 1-4, 7-18).
  - 1c. The embodiment wherein particles are caused to enter a solid, form a plasma therein and, wherein the particles fuse and produce gammas, betas and neutrons (claims 1-4, 7-16, 19, 20).
  - 1d. The embodiment wherein particles are caused to enter a lattice, form a plasma therein and, wherein the particles fuse with nuclei of the atoms of the lattice (claims 1-4, 7-12, 21-26).
  - 1e. The embodiment wherein a first group of particles are caused to enter a solid and form a plasma therein and, wherein a second group of particles are cause to enter the solid and fuse with particles of the first group and form a third highly concentrated group of particles (claims 1-4, 7-12, 31, 32).

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1f. The embodiment wherein particles are cause to enter a solid, form a plasma and form hydrogen molecules (claims 1-4, 7-12, 33-38).

3. If invention I is elected, applicant is further required under 35 U.S.C. 121 to elect a single ultimate specie of metal for the "solid", for purposes of examination. This additional requirement is to facilitate examining due to the numerous metals disclosed as suitable. (e.g. see pages 7+ of the specification).

4. If invention I is elected, applicant is further required under 35 U.S.C. 121 to elect a single ultimate specie of particle that enters the lattice and forms the plasma, for purposes of examination. This additional requirement is to facilitate examining due to the numerous materials disclosed as suitable (e.g. see pages 4+ of the specification).

5. If invention I is elected, applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

A. Wherein the particles that enter the lattice to form the plasma, are obtained from an ionic solution (see the specification on page 4 lines 4+).

B. Wherein the particles that enter the lattice to form the plasma, are obtained from a plasma gas (see the specification on page 4 lines 4+).

5. Applicant is advised that a reply to the election of species requirements, must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is

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allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP 809.02(a).

Should applicant traverse on the ground that the species are not patentable distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either case, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. This case was filed under 35 U.S.C. 371. There is lack of unity under PCT Rule 13 because there is no "special technical feature" common to all of the inventions which defines the contribution which each of the inventions makes over the prior art. In the present case, there is no common "special technical feature" because the general inventive concept of causing particles to enter a solid and form a plasma therein is inherently met by the teachings for example of Williams et al (Nature, vol. 342, pages 375-384 dated 11/89) or U.S. patent number 4,457,824 to Dempsey et al, (both of these documents show the same structure and method of operation as is used by applicant).

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7. Any inquiry concerning this communication should be directed to Mr. Behrend at telephone number (703) 305-1831.

Behrend/cw  
August 1, 2000

A handwritten signature in black ink, appearing to read 'H. E. Behrend', with a large, sweeping flourish at the end.

**HARVEY E. BEHREND  
PRIMARY EXAMINER**